

## REMARKS

Claims 1, 4, as previously amended, and claims 5-8 as filed are pending in the application. Claims 3, 9-11 and 14-24 are withdrawn as being directed to a non-elected invention, and claims 2, 12-13 are cancelled without prejudice for filing in a continuation application. The rejections set forth in the Office Action have been overcome by amendment or are traversed by argument below.

### **Rejection of claims 1-2, 4-8, and 12-13 under 35 U.S.C. §102(b)**

The Office Action asserts that claims 1-2, 4-8, and 12-13 are anticipated under 35 U.S.C. §102(a) by Sharma *et al.*, 2001, "Human CD34+ stem cells express the *hiwi* gene, a human homologue of the *Drosophila* gene *piwi*." Blood 97: 426-434. Applicants having previously submitted an unsigned copy a declaration from the named inventors pursuant to 37 C.F.R. §1.132, the Examiner refused to withdraw this ground of rejection until a signed copy of the declaration was submitted. Applicants submit herewith said signed copy of the declaration, and respectfully submit that the claims are therefore not anticipated under §102(a) by Sharma *et al.*

The Office Action also asserts that claims 12-13 are anticipated under 35 U.S.C. § 102(b) by Lin (WO 00/32039). Applicants have cancelled claims 12-13 without prejudice, in order to expedite prosecution of the pending claims to allowance. Applicants respectfully contend that this ground or rejection has been overcome by cancellation of the rejected claims, and respectfully request that the Examiner to withdraw rejection on 35 U.S.C. §102(b) grounds.

## CONCLUSIONS

Applicants respectfully contend that all conditions of patentability are met in the pending claims as amended. Allowance of the claims is thereby respectfully solicited.

If Examiner McKelvey believes it to be helpful, he is invited to contact the undersigned representative by telephone at (312) 913-0001.

Respectfully submitted,  
**McDonnell Boehnen Hulbert & Berghoff**

Dated: December 2, 2004

By: \_\_\_\_\_

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